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SUBJECT: IRAQI NSC DEBATES DETAINEE RELEASE ISSUES

Classified by Charge d'Affaires Patricia Butenis for reasons
1.4 (b) and (d).

Summary

¶1. (C) The Iraqi National Security Council, chaired by Prime Minister Maliki, debated detainee issues at its April 5 meeting. During the loosely structured and free flowing 90 minute discussion, several senior GOI officials worried that technical flaws in the vetting process might cause the inadvertent release of dangerous persons. The Minister of Justice, who oversees the majority of Iraq's prisons, complained of bureaucratic paralysis that was causing indefinite delays in the release of thousands of detainees against whom no evidence had been presented. The MOJ warned of overcrowding and bad conditions in GOI-administered prisons and urged streamlining of the vetting and release process. MNF-I Commanding General Odierno underlined the U.S.'s full coordination with the GOI in detainee affairs and rebuffed implications of a relationship between releases from U.S.-run facilities and a recent uptick in violence. End summary.

GOI-U.S. Coordination on Releases

¶2. (C) The April 5 Iraqi National Security Meeting dealt solely with the question of detainees. Ministry of Interior General Aidan, co-chair of the U.S.-Iraq joint sub-committee on detainees, reported to the group that the U.S. side had decided to reduce the rate of detainee releases from 1500 per month to 750. Additionally, the U.S. had recently provided to Iraqi counterparts 5200 sets of detainee fingerprints.

Senior GOI Officials Debate Release Procedures

¶3. (C) The Minister of Interior, Jawad Bolani, called for further scrutiny on the release process to ensure that dangerous persons were not inadvertently set free. In response, General Hussein of the Iraqi Police reported that of the 4114 detainees released by the U.S. so far this year, (only) 386 had valid Iraqi arrest warrants against them. The representative of the Supreme Judicial Council complained that the system is overwhelmed and its caseload exceeds its ability to keep pace in the production of arrest warrants.

¶4. (C) The Prime Minister insisted that there should be a clear mechanism for processing cases and that 70 days should be ample time for the system to vet candidates for release. The Supreme Judicial Council representative affirmed that under Article 22 of the Iraqi penal code, detainees who lack evidence against them in their case dossiers must be released. Introducing a note of caution, the Prime Minister stressed that no one should be released until cleared by security agencies which might have information against them. General Aidan affirmed that all release candidates were being

vetted by two separate committees - a security committee and an intelligence committee, each with access to different classes of information.

¶15. (C) At this point, U.S. Commanding General Odierno, who sat in the meeting (along with the Charge, Embassy Rule of Law Coordinator, and Emboffs), interjected that all detainees held by the Coalition Forces are vetted through a rigorous process prior to release. Any detainees found to be the object of Iraqi arrest warrants or named as persons of interest in investigations are held back in detention. The CG noted that 75 days was the period agreed by the U.S. and the GOI for a detainee name to be processed by the system and either be issued a warrant or be certified as free of warrants.
Qwarrants.

Systemic Vulnerabilities (?)

¶16. (C) The representative of the Ministry of Human Rights called attention to the problem of detainees registered under fake aliases. The ration card system was a powerful check against this phenomenon but not fool-proof, he warned. He strongly regretted the absence of a consolidated GOI database that would allow officials to efficiently expose detainees with fake identities. Many communities in Iraq are living in fear that the GOI will inadvertently release dangerous terrorists, he warned. The current system is so easy to foil that even the GOI regularly hires persons with dangerous criminal records, he warned.

BAGHDAD 00001029 002 OF 003

¶17. (C) The Minister of Interior took umbrage at the implication that the GOI is not capable of tracking dangerous detainees - "the Ministry of Human Rights does not speak for us," he insisted. Every Iraqi with a criminal record is entered onto the MOI's database, he underlined. There are a number of dangerous persons living under aliases, he allowed, particularly in the "hot" provinces but the MOI was routinely thwarting them with the help of local level officials who know their citizens, and their families, and can easily puncture cover stories.

Evidence and Prosecution

¶18. (C) The Prime Minister asked Iraqi security officials present whether the U.S., when turning over Iraqi detainees, was also providing enough information on these detainees to warrant prosecution or further detention. General Aidan pointed to the problem of different systems for classification of detainees. The U.S. system relied on names, dates of birth, and fingerprints, while the Iraqi system relied on the "quadrilateral" name (given name, father's name, grandfather's name, and tribal name) and mother's name to distinguish between very common name formulas (e.g. "Mohammed Said.")

¶19. (C) Iraqi Police General Hussein noted that a significant number of detainees were held on the evidence of a single anonymous source, implying that this was insufficient for indefinite detention or prosecution. The Minister of Interior underlined that police sources would be immediately killed if their anonymity was not protected. Dr. Rustom, advisor to the Ministry of State for National Security, opined that the GOI had an obligation to build, whenever possible, criminal cases on the foundations of arrest warrants and preliminary investigations.

¶10. (C) The Prime Minister asked whether any Iraqi prosecutions of detainees were going forward on the strength of (solely) U.S.-supplied evidence. General Hussein

confirmed that, if the U.S.-supplied evidence against a suspect was considered adequate, Iraqi prosecutions would be based solely on that information. The Prime Minister expressed reservations, insisting that records in Iraqi criminal and intelligence databases should also be scoured. Deputy Prime Minister Saleh interjected that there was a clear need for a joint cell that could consolidate Iraqi information and streamline case processing.

Are Terrorists Going Free (?)

¶11. (C) Dr. Safa Al-Sheikh, the Deputy National Security Advisor, expressed concern that the relatively low ratio of Iraqi arrest warrants to U.S. detainees put forward for release suggested that dangerous persons were probably being freed. Some detainees have no doubt been radicalized in prison, he warned. Those detainees who have no warrants against them should be carefully scrutinized, he added.

¶12. (C) Dr. Mouaffaq Al-Rubaie, the National Security Advisor, noted the recent uptick in violent incidents and asked whether there was a relationship between recent releases and increased violence. U.S. Commanding General Odierno responded, underlining that the U.S. had studied the issue carefully and had found no evidence to suggest that detainees released by the U.S. were involved in recent violence. Gen. Odierno emphasized that since the Security Agreement came into force on the first of January, the U.S. had been fully coordinating detentions and releases with the Government of Iraq.

Noting Overcrowding, MOJ Urges Expedited Releases
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¶13. (C) The Minister of Justice, Dar Nouredin, warned of dire overcrowding and poor sanitary conditions in Iraqi prisons (which are administered by the MOJ). Many prisoners were eligible for release under the amnesty law, but it was taking six months and longer for the GOI interagency process to affirm that detainees had no other warrants against them. There were some extreme cases where detainees had been held without charge for six years, he claimed. The MOJ said he had sent a proposal to the Prime Minister and National Security Advisor that would give GOI agencies a 15 day period to object to the release of specific detainees.

¶14. (C) The Minister of Interior said that investigators under his authority were working as hard as possible, and a representative of the Criminal Investigations Directorate

BAGHDAD 00001029 003 OF 003

pointed out technical difficulties such as the inability of investigators to access detainees while they were in transitory holding facilities. The Prime Minister underlined that he did not want to see finger pointing, he wanted to see solutions. Relevant authorities should work together to develop a better functioning mechanism, he stressed.
BUTENIS